

Notice of Allowability

Application No.

10/721,881

Examiner

Anthony Weier

Applicant(s)

FERKOVICH ET AL.

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the transmittal filed 8/16/07.
2. ☒ The allowed claim(s) is/are 1-3 and 8-10.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

The application has been amended as follows:

In the Title, replace "Factor" with –Supplement–.

Examiner's Reasons for Allowance

2. The following is an examiner's statement of reasons for allowance:

The prior art of record does not disclose or teach the instant invention as presently claimed. In particular, Cohen does not teach a diet supplement comprising host eggs in an amount effective to increase the fecundity of female beneficial insects reared on an artificial diet. Although there is reference to feeding said beneficial insects with insect eggs or artificial diet separately in Cohen, there is no indication of employing a combination of same nor is there any indication that combining same would increase the fecundity of female beneficial insects reared on an artificial diet supplemented with said host insect eggs. In fact, Cohen discloses that there is no difference in fecundity between insects grown on the artificial medium recited therein and those grown on insect eggs (e.g. col. 9, lines 45-60). AgAttack teaches away from the conclusions of Cohen by setting forth that *Orius insidiosus* (female beneficial insect) cannot be properly reared on the artificial diet alone and calls for the use of two diets, first eggs and then artificial diet to achieve same. It should be further noted that the instant claims

call for an egg protein supplement and both Cohen and AgAttack do not disclose nor teach a protein supplement but the use of the entire insect eggs. Moreover, neither reference discloses or teaches the use of an insect protein supplement comprising a homogenate of host insect egg but rather either a homogenate of an artificial diet (Cohen, col. 7, lines 19-35) or whole insect eggs (both Cohen and AgAttack).

Moreover, there is no motivation in the prior art of record to employ such insect protein supplement comprising an amount of homogenate host insect egg to produce the fecundity of female beneficial insects which are reared on an artificial diet. It should be further noted that the insect egg protein supplement is defined in the original specification (page 11) as being a supplement which enables an adult insect to develop and have improved fecundity without the addition of other insect components. Clearly, when setting forth an egg diet, both Cohen and AgAttack are employing whole eggs which contain more than protein. In addition, AgAttack would teach one skilled in the art at the time of the invention to feed insects two diets, the first involving whole insect eggs and the second involving the artificial diet. In other words, AgAttack would not suggest to one skilled in the art to feed insects an artificial diet which is supplemented with an egg protein. The instant invention calls for an insect egg protein (derived from whole insect eggs) which is fed as a supplement to the artificial diet and, therefore, fed simultaneously. Moreover, the instant claims require that the insect egg protein supplement be added to the artificial diet in amounts effective to increase fecundity. AgAttack gives no disclosure or suggestion as to what this amount would need to be,

the use of said insect egg component as a supplement included in one artificial diet, and a supplement that is egg protein (rather than egg protein and other insect components).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Weier whose telephone number is 571-272-1409. The examiner can normally be reached on Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

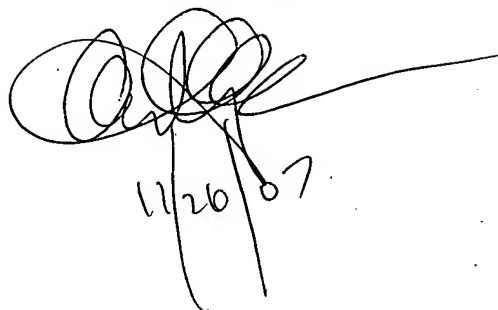
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Anthony Weier
Primary Examiner
Art Unit 1794

Anthony Weier
November 26, 2007



11/26/07